

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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RONALD GOMEZ,

Plaintiff,

-against-

**ORDER**

CV 06-2827 (NGG)(ARL)

J.R. HYCEE CONVEYOR CO., INC.,

Defendant.

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**LINDSAY, Magistrate Judge:**

Before the court is the defendant's request for guidance in compelling the non-party deposition of Paul Matschat. According to the defendant, Mr. Matschat was personally served with a copy of the subpoena on March 14, 2007, and his employer's counsel has refused to permit his deposition. The defendant may submit a letter application seeking to adjudicate Mr. Matschat for civil contempt pursuant to Fed. R. Civ. P. 45(e). That application must be submitted to the court on or before May 7, 2007 and must contain a copy of the subpoena with proof of service. The defendant shall serve a copy of the motion on Mr. Matschat unless UPS's counsel has indicated that they are representing Mr. Matschat, in which case the motion should be served on Loccissano and Larkin.

The defendant has also requested an extension of the discovery schedule to which they believe plaintiff's counsel has consented. Plaintiff's counsel has indicated that it does not consent to the extension of discovery although it believes that non-party discovery can continue without reference to party discovery. Plaintiff's counsel is incorrect. Non-party discovery is also subject to the deadlines set in the scheduling order.

Given that the plaintiff has not provided any other reason for his objection to the extension, the deadline for all discovery, inclusive of expert discovery will be extended to June 11, 2007. Any party planning on making a dispositive motion shall take the first step in the motion process by June 25, 2007. The final conference scheduled for May 31, 2007 is adjourned to **July 13, 2007 at 11:00 a.m.**

Dated: Central Islip, New York  
May 2, 2007

**SO ORDERED:**

\_\_\_\_\_/s/\_\_\_\_\_  
ARLENE ROSARIO LINDSAY  
United States Magistrate Judge